

APPENDIX C

**COMMENTS ON
IMPLEMENTATION POLICIES TO SUPPORT
THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED
NATIONAL AMBIENT AIR QUALITY STANDARDS
FOR PARTICULATE MATTER AND OZONE**

To support revised federal air quality standards, the U.S. Environmental Protection Agency (U.S. EPA) is also proposing a specific policy to guide states in implementing any new standards and is soliciting comment on a broad range of implementation issues. This appendix discusses critical implementation concerns for California and suggests general policy principles to address each issue.

INTERIM IMPLEMENTATION POLICY

The proposed transition or Interim Implementation Policy is intended to ensure that states continue making progress toward cleaner air while they are still developing formal attainment plans for the revised standards.

Automatic bump-up

For existing “Moderate” ozone nonattainment areas that failed to attain the current federal standard in 1996 (like Santa Barbara), U.S. EPA proposes automatic “bump-up” to some of the Clean Air Act requirements for “Serious” areas. Specifically, U.S. EPA would raise the hurdles for siting or expanding a major pollution source in the area. This would penalize new and growing businesses for the attainment failure, without consideration as to the real cause. Instead, U.S. EPA should use its “State Implementation Plan (SIP) call” authority and give the state the flexibility to assess the reasons for the failure and propose an appropriate strategy in response.

Application of the “no backsliding” principle

Under the “no backsliding” provision of the policy, states would have to continue meeting the rate-of-progress requirements in the Clean Air Act during the transition. California will follow the course set by its approved Ozone SIP and SIPs for PM10. The California SIP would meet the rate-of-progress requirement proposed in the Interim Implementation Policy.

Preliminary attainment demonstration for ozone

U.S. EPA proposes to require states to submit, within 90 days of finalizing the new ozone standard, a preliminary analysis of the emission reductions needed to attain that standard. The

rationale is that such an assessment would indicate the need to move forward with new air quality programs even while the state is developing its formal attainment plan. This sort of analysis could prove useful to states that have not yet developed the ozone attainment plans for the current standards, but it should not be mandatory.

ADVANCE NOTICE ON THE IMPLEMENTATION POLICY

The Advance Notice poses a series of questions and discusses a broad range of options for implementation policies that U.S. EPA must address in future rulemakings (expected in 1998 and 1999). With potentially significant changes to the air quality standards pending, the notice seeks to stimulate the national debate as early as possible. The most important issues for California are discussed below, along with general principles that U.S. EPA should consider in developing its specific policies.

Timing/attainment dates

The 1990 Clean Air Act recognized the need to provide more time for areas that faced more difficult challenges (based on the nature and severity of the problem, as well as the progress already achieved). Dates set by Congress in the current Act have proven to be appropriate in balancing the need for rapid progress with the practical constraints, except for areas dominated by transported pollutants. U.S. EPA policies for establishing attainment deadlines for new standards should be based on these principles:

- States should not be required to meet more stringent standards in the same time frames applied to existing, less stringent standards. Deadlines must take into account the availability of cost-effective technologies and the need to rely on future technology advancements.
- Deadlines for transport impacted regions must take into account attainment deadlines for “upwind” areas that contribute to or cause the violations.
- States or regions with more difficult air pollution problems should have more time to comply with standards than areas with less severe problems.
- All nonattainment areas should make expeditious and steady progress towards clean air.

Designations of nonattainment areas

Attainment and nonattainment designations should continue to reflect the monitored air quality in each area, without consideration to the source of air pollution. Designations should serve two purposes: (1) to indicate whether the air meets health-based standards; and (2) to

trigger a planning process to assess the problem and relative responsibility in transport areas, and to identify actions needed to ensure standards are attained. Designations, in and of themselves, should not trigger control requirements. U.S. EPA should structure its implementation policy and schedule to ensure that designation of PM_{2.5} nonattainment areas can be based on PM_{2.5} monitoring data.

Pollutant transport

Area classifications, which are tied to planning and control requirements in the Clean Air Act, should consider pollutant transport. Where transport occurs between areas within the same state, it should be the state's responsibility to assess equitable planning and control responsibilities in order to reach attainment in all areas as expeditiously as possible. In the case of interstate transport in the West, affected states will need to establish a mechanism to ensure appropriate technical analyses of the relative contribution, if any, of each state to another state's air quality problem. U.S. EPA's transport policy must recognize such technical assessments, as well as the existing levels of control in each state. Given the importance of this issue, U.S. EPA should establish new policies to address transport as part of the first phase of implementation policy development.

Implementation of secondary (welfare) standards

If U.S. EPA promulgates a secondary ozone standard that is more stringent than the primary standard for some regions, there could be new nonattainment areas that only violate the secondary standard. In this event, U.S. EPA should consider the appropriateness of applying transportation conformity, as well as planning and control requirements, to areas that violate only the secondary standard.

Transportation conformity

In the Advance Notice, U.S. EPA does not address the federal regulations for transportation conformity, which require consistency between air quality and transportation plans. New approaches to federal air quality planning may require revision to the conformity regulations to make this consistency possible. U.S. EPA must evaluate, and potentially redesign, transportation conformity requirements in parallel with changes to implementation policies to avoid problems.